

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

INSITUFORM TECHNOLOGIES, INC.,	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 04-10487 GAO
	)	
AMERICAN HOME ASSURANCE	)	
COMPANY,	)	
	)	
Defendant.	)	
	)	

**AMERICAN HOME ASSURANCE COMPANY'S  
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56, defendant, American Home Assurance Company (“American Home”), hereby moves for summary judgment on Count I (Breach of Contract) and Count II (Declaratory Judgment) of the Complaint of plaintiff Insituform Technologies, Inc. (“Insituform”).

As grounds for its motion, American Home is entitled to judgment for two principal reasons. First, even if Endorsement No. 4 is ambiguous, as the Court has concluded, the American Home Policy only “follows form” with respect to the eight (8) specific hazards listed in Endorsement No. 4 and Insituform has not – and cannot – demonstrate that the MWRA Claim actually falls within the coverage of any of those eight hazards. Second, coverage for the MWRA Claim is plainly barred by the standard terms and conditions of the American Home Policy, including the so-called “faulty-workmanship” exclusions (Exclusions F and G), which were **not** modified by Endorsement No. 4 and, therefore, remain in full force and effect. Accordingly, Insituform cannot demonstrate that it is entitled to coverage under the American

Home Policy – pursuant to the Contractor’s Endorsement or any other provision of the policy.

American Home is, therefore, entitled to judgment as a matter of law as to Counts I and II.<sup>1</sup>

In further support of this motion, American Home relies on the accompanying memorandum of law and statement of undisputed material facts, filed herewith and incorporated herein by reference.

WHEREFORE, American Home requests that the Court:

1. Grant its Motion for Summary Judgment;
2. Enter judgment dismissing the Complaint in its entirety; and
3. Grant such other further relief this Court deems just and appropriate.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(D), American Home requests a hearing on this motion and believes that oral argument will assist the Court.

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<sup>1</sup> In a Memorandum and Order dated March 30, 2005, the Court granted American Home’s motion for summary judgment on Count III of the Complaint, which alleged a violation of Mo. Rev. Stat. § 375.420 (2002).

**LOCAL RULE 7.1(A) CERTIFICATION**

By signing below, the undersigned certifies that he has conferred in good faith with counsel for plaintiff in a good faith effort to resolve or narrow the issue presented by this motion.

Respectfully submitted,

AMERICAN HOME ASSURANCE COMPANY,

By its Attorneys,

/s/ Gregory P. Deschenes

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Dated: August 24, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on August 24, 2006.

/s/ Gregory P. Deschenes

Gregory P. Deschenes